

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN EDITH CLARK**, on February 7, 2003 at 8:03 A.M., in Room 472 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Edith Clark, Chairman (R)  
Sen. John Cobb, Vice Chairman (R)  
Rep. Dick Haines (R)  
Rep. Joey Jayne (D)  
Sen. Emily Stonington (D)

**Members Excused:** Sen. Bob Keenan (R)

**Members Absent:** None.

**Staff Present:** Robert V. Andersen, OBPP  
Pat Gervais, Legislative Branch  
Lois Steinbeck, Legislative Branch  
Sydney Taber, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp refers to material below it.

**Committee Business Summary:**

Hearing & Date Posted:	Operations Technology Division
Executive Action:	MTAP - not go forward on Committee Bill
	SLTC - for a Committee Bill; recommendation to Conference Committee

***{Tape: 1; Side: A; Approx. Time Counter: 0.5 - 8.6}***

**CHAIRMAN CLARK** opened saying that there is another MTAP bill in the Senate which will amend the 400 percent of federal poverty down to 250 percent. It also puts \$50,000 into the Montana School for the Deaf and Blind(MSDB). She suggested that they drop their bill since this bill is moving forward.

**EXECUTIVE ACTION ON SUBCOMMITTEE BILL ON MTAP**

***{Tape: 1; Side: A; Approx. Time Counter: 7.9 - 8.4}***

**Motion/Vote:** REP. CLARK moved that THE SUBCOMMITTEE NOT MOVE FORWARD ON THE 200 PERCENT OF POVERTY MTAP BILL BE ADOPTED. Motion carried 4-0 on a voice vote. Proxies for REP. JAYNE and SEN. KEENAN were not provided to the secretary.

**HEARING ON OPERATIONS AND TECHNOLOGY DIVISION**

**Electronic Benefit Transfer Overview**

***{Tape: 1; Side: A; Approx. Time Counter: 11.5 - 19.5}***

**Mike Billings, Administrator of Operations and Technology Division (OTD)**, suggested that he begin by discussing the issues raised in his prior overview. OTD has done ingenious things to comply with substantial federal mandates for the Electronic Benefits Transfer(EBT) and Health Insurance Portability and Accountability Act(HIPAA)issues. **Mr. Billings** distributed a spreadsheet on EBT development and said that it is now a functional entity. They issue all food stamps through the Montana Access Card, which is similar to a credit or debit card. Montana is its own bank, and this factor provides financial and functional benefits to the State. OTD has been able to reduce the cost of issuing food stamps from \$1.98 a case per month to \$1.96 per case per month. At the outset of the project, they were not sure that they would have this level of cost effectiveness; however, they have brought other programs onto the Access Card. Temporary Assistance for Needy Families (TANF) cash benefits issuance and Child Support Enforcement Division(CSED) check issuance are expected to be on the card by May 2003. Assuming that those programs will continue to grow in usage of the card over the next several months, **Mr. Billings** said they will achieve cost effectiveness within a couple of years. **Mr. Billings** reviewed other programs that they may put on the Access card.

**EXHIBIT(jhh27a01)**

**CHAIRMAN CLARK** asked if there was a projected rate of cost effectiveness within two years. **Mr. Billings** replied that they are targeting something less than \$1.96 or something less than they would pay for coupons per case per month. He continued that there are many advantages to the Access Card, safety being one factor involved.

**{Tape: 1; Side: A; Approx. Time Counter: 19.5 - 25}**

Responding to questions from **SEN. COBB**, **Mr. Billings** said that the feedback from consumers has been very positive; those receiving food stamps have been very receptive to it. In fact, food stamp usage has increased, although they are not sure that it is the card or the economy. They believe that the black market for food stamps will decline with the use of the card. There have been minimal problems with the system, but there have been mechanical problems and problems related to the interactive voice response (IVR) unit. They are doing \$100 million a year in business through the access program, which will increase. They are in the process of installing an IVR in Albuquerque so that if the IVR unit in DOA is down, it will automatically flash to that one; the goal is totally uninterrupted services, and they are close to it.

**{Tape: 1; Side: A; Approx. Time Counter: 25 - 27.3}**

**Gail Gray, Director of the Department of Public Health and Human Services (DPHHS)**, said that it has been delightful to talk to people in the field who are working with this. The counties have training sessions on how to use the cards so that those who have never had a credit card learn. The only complaint that she heard was that they should have done it a long time ago.

**{Tape: 1; Side: A; Approx. Time Counter: 27.3 - 31}**

**SEN. STONINGTON** asked **Mr. Billings** how he is measuring cost effectiveness. He replied that they identified all of the costs associated with the production and distribution of food stamp coupons and divided it by the number of cases per month served. This provided them with the cost per case per month of the coupon. They then did exactly the same thing with the EBT card, but they have only about seven months of experience there.

#### **IT Divisions and POINTS System Discussion**

**{Tape: 1; Side: A; Approx. Time Counter: 31 - 37.9}**

**SEN. STONINGTON** asked how his programs are working with Brian Wolf and the larger plan for the State's information technology (IT) systems. **Mr. Billings** supplied background on SB 131, which was designed to deal with issues like Process Oriented Integrated System (POINTS). He stated that POINTS was a disgraceful demonstration of bureaucratic ineptitude and added

that he was sorry to say this. However, he does this for a living and is judging based on his own experience. POINTS is a complicated, possibly inadequately coordinated system. The DPHHS OTD has experience with systems which greatly exceed the magnitude of the POINTS system; for example, The Economic Assistance Management System (TEAMS) is the largest system ever developed in Montana and the System for Enforcement and Recovery of Child Support (SEARCHS) is as large or larger than POINTS.

**Mr. Billings** continued that OTD has developed and maintained systems with contract amounts of \$147 million, and it has never had contract issues. All of the contracts have come in on target, on time, and under budget. The planning and participation involved in them was prodigious, and at one point, they had the largest full-time staff for several months in order to design and implement TEAMS. On the basis of these systems, DPHHS has paid out over \$6 billion in benefits, and they have never had a hitch.

*{Tape: 1; Side: A; Approx. Time Counter: 37.9 - 42.2}*

Responding to further questions from **SEN. STONINGTON, Mr.**

**Billings** stated that Brian Wolf is an able individual and they are working well together, although not without problems. There are issues that they must overcome, and there are rules that must be developed so that they will know how to operate. The IT community is looking forward to having input in the development of the rules.

**SEN. STONINGTON** asked **Mr. Billings** what success would look like to him, and he replied that it would be a reduction of bureaucratic review and paperwork. It would mean that they would no longer have to spend so much time on paperwork and justification of what they are doing.

*{Tape: 1; Side: A; Approx. Time Counter: 42.2 - 50.1}*

**SEN. STONINGTON** said that she served on Legislative Finance Committee during the interim, and at one point, Mr. Wolf gave his strategic plan presentation. The response from the committee was that IT would not receive another penny until the committee knows that this will work - it was obviously a comment on POINTS. She asked Mr. Billings what he is seeing in this session with regard to the legislature's willingness to proceed with IT development.

**Mr. Billings** said that if he came to the legislature, he would expect them to look at his history and what his division has done in making their decisions. If he came from the Department of Revenue (DOR) with a contract proposal to do something, he would expect the legislature to be skeptical and that it would want to know that 'best practices' have been practiced in DOR. He added

that he is incensed by the POINTS system and what happened both as a taxpayer and an IT administrator.

**Mr. Billings** responded that Mr. Wolf needs every resource in order to focus on the systems that have problems so that he does not have to focus on those programs that work well.

**{Tape: 1; Side: B; Approx. Time Counter: 0.3 - 3}**

**SEN. STONINGTON** asked his opinion on establishment of a state IT Chief. **Mr. Billings** replied that when the legislature proposed the position, it would not have interested him as the position was constructed. If it had been a policy position at the executive level, he would have been interested and would have been supportive of it. Policy and standards need to be set at the executive level. A statewide policy IT chief is important. Many of the goals that Brian Wolf has, such as implementing best practices and procedural examples of how success has been achieved, are essential. Under those circumstance, POINTS may not have developed as it did.

#### **Continuation of Overview of EBT and other Systems**

**{Tape: 1; Side: B; Approx. Time Counter: 3 - 14.5}**

Responding to a question from **SEN. COBB** on the building of the IT systems, **Mr. Billings** said that they spent \$147 million on the building and operations contracts for TEAMS, SEARCHS, Child and Adult Protective Services(CAPS), Montana Medicaid Management Information System(MMIS), and MEDSTAT. It is an aggregate over 11 years, and is an underestimate because there were some smaller systems involved as well.

Continuing with his explanation of the EBT system, **Mr. Billings** said that they developed it because the federal government said that they must or risk losing the food stamp program. Referring to Exhibit 1, **Mr. Billings** said that it cost \$610,000 in general fund and \$1,494,344 in federal funds to build the system. The federal funding was part food stamps and part Temporary Assistance for Needy Families(TANF). The division would have been derelict if it had not envisioned the broader possibilities for EBT. Very early in their planning, they decided to put TANF cash benefits on the card. There is an adequate network of over 1,000 ATM units statewide. Referring to Exhibit 1, he said that the biggest source of development funding was a \$400,000 general fund legislative appropriation which they had for several years for TANF. The system was built as a TEAMS enhancement from which it draws its information and is updated.

Referring to his prior time before the Subcommittee on January 9, **Mr. Billings** said that **SEN. COBB** said "they never give Billings any money, and he builds all these systems", and he owes them an explanation of how OTD does this. The TEAMS contract is at \$3.7 million per year, and the CAPS and SEARCHS systems are as well. In most systems, they pay out a lot of money in one month. He approached TRW with the suggestion that instead of paying them \$3.7 million over twelve months that they would pay \$3 million now. It did not end up to be that good of a deal, but they freed up \$60,000 in appropriation over the year. Interest rates were not good enough for it to be much larger, and right now they are not good enough to make it worthwhile. They received a seven percent discount rate, which went into building EBT. They did the same with CAPS, and there were other savings within the budget as well. They had a total savings of \$614,000 and that is the general fund with which they built the EBT system.

Referencing the LFD issue with respect to why he had not talked to the legislature about this, **Mr. Billings** said that there was a mandate, and when they found out what they would have to do, the legislature was gone. If he had come to ask them for \$2.3 million, they would probably not have given it to him and would have said "go be creative." It was not an intention to circumvent the legislature, but an intention to manage the program as the Subcommittee has asked in the past.

**SEN. COBB** commented that even though the Subcommittee would probably not have given them the money, it is important for them to tell the Legislative Fiscal Division(LFD)staff because the legislators rely on them. **Mr. Billings** replied that the division held a meeting in which they involved many people, including the staff, and told them what they were going to do and how they would fund it. It was a way of letting them know what they were going to do. He said the level of communication has varied, but concurred that he should tell staff.

#### **LFD Issue Associated with OTD System Development**

**{Tape: 1; Side: B; Approx. Time Counter: 14.5 - 22.3}**

**Pat Gervais, LFD**, said the IT governing statute does not specifically address inclusion of IT projects funded within the base budget in the summary included with the Office of Budget and Program Planning(OBPP)preparation of the Governor's budget. This issue is discussed on B-119 of the LFD Budget Analysis. The issue raised is whether or not the Subcommittee wishes to specify that information on technology projects funded within existing appropriations be included in the statutory provisions in the IT project budget summary prepared by OBPP. If the Subcommittee

wishes to pursue this policy issue, it may wish to set a dollar threshold for projects included in the summary.

**SEN. COBB** asked what this would do, and **Ms. Gervais** said that it would assure that a formal summary including all of the Department's statewide plans would be in the budget summary which is part of the Governor's budget. This would be a formalized place where such projects would be identified. In the case of this session's Budget Analysis, staff was greatly assisted by the Department's IT plan. On B-117 there is discussion of ongoing and future system development issues based on the IT plan.

*{Tape: 1; Side: B; Approx. Time Counter: 22.3 - 28.2}*

**Bob Andersen, OBPP**, said that the statute could be part of what they are doing since it focuses on new things. He added that Mr. Billings has been able to do much for them within those boundaries and said that he is unsure how much information that they would want in the summary. As it is, those things which are done would be in the summary or in the budget, as opposed to, what is about to be done and a thing on which action could be taken. The statute does specify that there should be a list. He cautioned that they may not need to change anything in the statute. Some of the things, the division is doing are evolutionary.

**Ms. Gervais** reminded the Subcommittee that if this is an issue that it wishes to have included in the summary of the budget, statutory guidance would compel it and would be the rationale for making the statutory change. If it is not an issue that they feel strongly about, but would like to request, they could do a request and the executive branch could comply or not comply. Statutory provisions are the legislature's way of assuring that an action occurs.

*{Tape: 1; Side: B; Approx. Time Counter: 28.2 - 32}*

**John Chappuis, Deputy Director of DPHHS**, encouraged the Subcommittee to allow the division to maintain current flexibility. Mr. Billings has demonstrated numerous times that by putting in options to systems it will save them money. The OMNI alert system was never budgeted by the legislature, but they used funds from Health Policy and Services Division (HPSD), and it has saved hundreds of thousands of dollars more than the original cost. Opportunities to save money come up occasionally, and the flexibility that Mr. Billings has had during his tenure at OTD have meant millions in dollars to them.

**CHAIRMAN CLARK** said that they need to portray their wish to know what is going on, but not hurt flexibility to take projects as they come. **SEN. STONINGTON** suggested that they request that LFD

staff and OBPP be updated on those activities that show promise on which the Department has decided to proceed. She said that it would be counterproductive to change the statute, and **CHAIRMAN CLARK** said that at this point, she agrees.

**{Tape: 1; Side: B; Approx. Time Counter: 32 - 38}**

**REP. HAINES** said that in looking at the entire Department and this kind of funding change, beneficial or not, he wonders what is happening elsewhere. He said that he experiences concern about all appropriations going to DPHHS when he sees this.

**Mr. Chappuis** responded that they have been given the flexibility to move money from operations to benefits or back and forth which is necessary within this department. If they had not had this flexibility over the last two years, they would be in even tougher straits than they are already. There were savings projects which went into effect; for instance, the ability to move money from the refinancing, contracts, and other items. He agreed that these actions can be a little disconcerting when viewing an agency of this size; however, they are paid to manage the agency and put the money where needed. He added that he hopes that they have not harmed that trust, but they have taken it as a mandate to try to make savings, target funds where needed, and run the operation. Transfers go through OBPP; the Department is not free to just move things around. But there are much larger transfers between programs than those made by Mr. Billings. They must do this in order to keep a program from failing, for starting a new program, or for savings projects.

**{Tape: 1; Side: B; Approx. Time Counter: 38 - 46.3}**

**Mr. Billings** explained that all expenditures which have occurred are consistent with the concept of operational funds that the agency has to accomplish its business. They are moveable within the agency to meet the specific needs in various areas. There are limitations on moving operational funds to benefits, and others, but in this case, the funds were not used other than intended. The project may not have existed or been well-defined at the time the monies were appropriated.

**REP. HAINES** said that the issue is the standard that they are asking other agencies to hold with while DPHHS is allowed to do this. **Mr. Billings** emphasized that there was no choice in using the \$2.3 million; it was mandated by the federal government and often those mandates are not fully funded. If they had not done this, they would have lost the food stamp program. The same is true with HIPAA, although that loss would be \$450 million to \$500 million per year. When up against the wall, they must comb through budgets and find where they can legitimately take money. It was the priority of this agency to do the job as mandated.



**REP. HAINES** responded that this is not the only agency that receives mandates. He is not criticizing the results, but it causes problems elsewhere.

### **Health Insurance Portability and Accounting Act**

**{Tape: 1; Side: B; Approx. Time Counter: 46.3 - 48.9}**

**Mr. Billings** continued that it was a federal requirement that they meet the HIPAA requirements. It is an extensive requirement, and it is important that every Medicaid transaction be processed as specified by the federal government. All medical care providers must now report in a HIPAA compliance format.

**{Tape: 2; Side: A; Approx. Time Counter: 0.3 - 6.7}**

**Mr. Billings** explained that rebuilding the MMIS system to accommodate the new HIPAA format was prohibitive at \$6 to \$26 million, so they developed a translator concept that allows the existing system to process claims. They were able to build the translator with enhanced funding, 90 percent of which was federal, at a total cost of \$2.36 million. He explained how they found \$236,000 of general fund.

**SEN. COBB** expressed concern that should something happen to Mr. Billings or should he retire, there may not be a qualified individual familiar with the system to take over. **Mr. Billings** said that there is depth to his organization, and there are others who are both qualified and familiar enough with the systems to take over from him.

**{Tape: 2; Side: A; Approx. Time Counter: 6.7 - 15.7}**

**Mr. Billings** then reviewed the systems that will require enhancement and new contracts and said he is giving notice of those enhancements. They are not requesting new funding for these enhancements, but will use existing funding. The division will not come back within the next two sessions for new money unless something dramatic happens; in which case, he will have to come back for new money.

**{Tape: 2; Side: A; Approx. Time Counter: 15.7 - 21}**

In response to questions about the contract procurement process from **SEN. STONINGTON**, **Mr. Billings** said that they have hired TRW to build the system and retained that contractor to operate, enhance, and maintain it. He explained why they do it this way. Their contracts require that the contractors must live here, which guarantees adequate transition in case updates to the system must be made. It has been a way of assuring that if anything big comes along, the people are on board, so they do not have to bring in new contractors and go through the process of adjusting. Someone could replace TRW; it would be difficult, but

it is not impossible. There are strict performance standards, and if TRW did not perform adequately, they would look for another contractor. Others have bid in the past, and there are others that are investigating whether they will bid now.

**{Tape: 2; Side: A; Approx. Time Counter: 21 - 24}**

**Mr. Chappuis** said that he serves on a national panel and meets directors and administrators from other states. The Subcommittee should be proud of Mr. Billings' accomplishments with MMIS and TEAMS. He brought up the first successful TEAMS system in the nation. No other state approaches Montana in the terms of costs and efficiency in MMIS. Nevada had an MMIS system which was decertified for several years and called Montana to find out what it was doing right. If Mr. Billings were to leave, it would create a huge hole, especially in the judgment and direction that goes on in procurement of systems. He has done a wonderful job for the State.

#### **LFD Issue Associated with "A" Accrual**

**{Tape: 2; Side: A; Approx. Time Counter: 24 - 29}**

Referring the Subcommittee to B-119 of the Budget Analysis, **Ms. Gervais** explained that an "A" accrual is an accrual where the expenditure is accrued on the accounting record, but the services to be paid by the expenditure are received after the fiscal-year end. The Department recorded an "A" accrual of \$240,000 in general funds and \$2.1 million of federal funds. "A" accruals are scrutinized closely because they can be used by departments to build a base budget. She reviewed options the Subcommittee may wish to take.

#### **LFD Issue Associated with Montana Access, EBT**

**Ms. Gervais** then referred the Subcommittee to B-121 and 122 of the Budget Analysis, and said that there is \$44,671 of general fund development cost for the Montana Access system remaining in the base budget for the division are carried forward to the 2005 biennium budget. These funds are to be used to support ongoing operations of the EBT system. She reviewed options the Subcommittee may wish to take with respect to this issue.

**Ms. Gervais** then reviewed the three decision packages for the division on B-121 of the Budget Analysis. She concluded her comments with a brief review of the three present law adjustments within the division, all of which are reductions.

**{Tape: 2; Side: A; Approx. Time Counter: 29 - 36.4}**

**SEN. STONINGTON** requested comment from Mr. Billings with respect to the two LFD issues, and **Mr. Billings** said that EBT and HIPAA

are two new systems. As previously indicated, there will be enhancements to these systems. Leaving that money in the budget would enable them to spend that money for those purposes. The operational expenses for EBT will come largely from HCSD. Mr. Hudson is \$65,000 short the general fund for estimated operational costs and added that he has no proprietary grip on the \$44,000. If they would like to move it into HCSD to cover Mr. Hudson's budget to cover the deficit in operations, it is fine. If they move it out of OTD's budget, he will need to get money for changes from somewhere else, and he would look to HCSD for it. With regard to HIPAA issues, there will be changes and the money gives a cushion to handle those changes.

**{Tape: 2; Side: A; Approx. Time Counter: 36.4 - 44.5}**

**SEN. STONINGTON** requested comment from Mr. Andersen on the "A" accrual issue. **Mr. Andersen** said that OBPP looked at the "A" accrual and decided that this division needs the flexibility. They agreed to leave the \$240,000, but he did not catch the \$44,000.

**SEN. COBB** commented that the legislature encourages Mr. Billings to do these things by not funding him appropriately.

#### **HEARING ON PUBLIC TESTIMONY ON CHILD AND FAMILY SERVICES DIVISION**

**{Tape: 2; Side: A; Approx. Time Counter: 44.5 - 49.8}**

**{Tape: 2; Side: B; Approx. Time Counter: 0.5 - 3.6}**

**Kandi Matthew-Jenkins** testified in opposition to funding for Child and Family Services Division. She read her statement and requested that the Subcommittee pay close attention to the legislative audits and scrutinize the division's continued lack of accountability and responsibility.

**EXHIBIT (jhh27a02)**

**{Tape: 2; Side: B; Approx. Time Counter: 9 - 16}**

**Ms. Steinbeck** distributed HB 481, the hospital user fee bill, which has been assigned to the Subcommittee. The bill does not include the state hospital. The reason that the Subcommittee does not want it included is that Medicare will not participate in the proposed tax. There is very little Medicaid reimbursement, and it would be a straight general fund exchange.

**EXHIBIT (jhh27a03)**

**Chuck Hunter, Administrator of the Refinancing Unit**, said that it would cost the state hospital more than it would recover. A tax like this is an allowable cost under both Medicare and Medicaid.

**Ms. Steinbeck** said that if Medicare would participate in the cost and the Medicare reimbursement were going to the general fund, it would be an increase in the general fund appropriation to pay the tax. **Mr. Hunter** said with the bill, they can not do anything with Medicare rates since there is no money generated that goes into Medicare rates that provides that kind of leveraging.

**Ms. Steinbeck** said that the bill is only to provide rate increases. There is no revenue that is used to offset any of the potential reductions that the Subcommittee is considering. The bill is also only for one interim, and must then be renewed. The issue is that this is a provider tax for a one-time rate increase for hospitals. There was further discussion of the bill.

*{Tape: 2; Side: B; Approx. Time Counter: 16 - 20}*

**Mr. Hunter** explained that the hospitals are looking at the cost of care in Medicaid and the gap between what they are currently paid and the true costs. They are funding a tax which will bring those two up to the cost of care. Responding to subcommittee questions, **Mr. Hunter** said that inpatient hospital expenditures per annum are \$80 million. This bill is for two-years only because the hospitals want to make sure that the mechanism will work. There is a tax side and a payment side. The hospitals want to be assured that both mechanisms work and that there is a return on the money invested through the tax. The hospitals do not want to see money expended that they do not get back on the other side.

#### **Bill Draft Request for a Tax on the State ICF/MR**

*{Tape: 2; Side: B; Approx. Time Counter: 20 - 24.7}*

A bill draft request for a tax on the two state Intermediate Care Facilities for the Mentally Retarded(ICF/MR) was distributed.

**Mr. Hunter** explained that the tax revenue would be used to make the general fund whole and would yield an additional amount represented by the Medicaid portion through reimbursement of the tax payment. Under a 5.5 percent tax rate, they would need an appropriation of \$450,000 and would generate \$300,000 in state special revenue(SSR) after the general fund appropriation is paid back. This fiscal year, they are proposing to do this, effective on passage and approval, which would allow them to collect two quarters of revenue in FY03. They could expect to collect \$600,000 of new SSR after the general fund is repaid, and the money could then be used for Medicaid match or other purposes.

#### **EXHIBIT(jhh27a04)**

**Mr. Hunter** explained that they have created an SSR: the general fund appropriation would go to the facilities; the facilities

would pay the tax in 100 percent general fund; the facilities would bill Medicaid; the Medicaid portion of reimbursement would go to general fund; the funds that were paid in tax would go to a SSR; and 30 percent of the revenue would go directly to the general fund, leaving 70 percent in the SSR to either match or use for other Department expenditures. The bill title talks about the purpose of the SSR to finance, administer, and provide for health and human services. It is broad language allowing administrative costs, funding of the refinancing unit, and payment of direct services.

**{Tape: 2; Side: B; Approx. Time Counter: 24.7 - 38.8}**

**SEN. STONINGTON** requested clarification. **Ms. Steinbeck** explained that it is new tax revenue which would be deposited into an SSR. Right now, no appropriation exists to spend the revenue in FY04 and FY05. The Subcommittee may wish to ask for a staff analysis, and her recommendation would be that FY04 and FY05 revenue or SSR authority be appropriated in HB 2 contingent on passage and approval of this bill. The Subcommittee could choose to put it in an SSR or in the general fund, but this bill puts it in an SSR account. **SEN. STONINGTON** said that she would like Department comments.

**Mr. Hunter** provided an explanation of the method using the whiteboard. **Ms. Steinbeck** explained that if the Subcommittee goes ahead with the bill, it could appropriate the funds in the SSR each year of the 2005 biennium contingent on passage and approval of the bill. **SEN. COBB** suggested that they use the funding to take care of shortfalls in CSED or in the SSR. **Mr. Chappuis** recommended that they use this money for the refinancing unit, for contracts, or for potential shortfalls. **CHAIRMAN CLARK** said that they would need to earmark it if it were to go to potential shortfalls. **Ms. Steinbeck** said that there is an appropriation in the bill, and if they want to direct how it is to be used in FY03, they would need to say "to be used for the refinancing unit," "to be used for child support enforcement match," or something else. **CHAIRMAN CLARK** and **SEN. STONINGTON** both said that they would want the language to be broad.

**Mr. Hunter** said that they do not have a bill for the nursing home facility in Lewistown; it is not included in a nursing home bed tax. **Mr. Hunter** proposed that if they did bring forward such a bed tax, they should put the revenue generated from that facility into this SSR and not into the general pool of other nursing homes. This is one reason why the language for this SSR is so broad.

**Ms. Steinbeck** commented that this was one of the Subcommittee ideas when they had the earlier refinancing discussion with Mr.

Hunter. She added that if they amended the state Medicaid plan they could impose the tax back to January 1, 2003. There are 105 people at the nursing care center, and 70 of them are Medicaid-eligible. There are 35 that will be moved into the community, and they would be eligible in the community. She said that it should still have a net revenue increase, and perhaps they should consider making it retroactive. **Mr. Hunter** added that the numbers, given current conditions, would spin off about \$90,000 for the SSR funds. When reduction is done, the money would be less, but there would still be enough to make it worthwhile.

**{Tape: 2; Side: B; Approx. Time Counter: 42.7 - 44.4}**

**Motion/Vote:** SEN. STONINGTON moved that A REQUEST FOR THE DEPARTMENT TO BRING FORWARD A COMMITTEE BILL INCLUDING THE LEWISTOWN NURSING HOME AND THE NURSING HOME TAX; THE MONEY GENERATED FROM THAT TAX TO BE DEPOSITED IN THE STATE SPECIAL REVENUE ACCOUNT CREATED FOR THE ICF/MR. Motion carried 4-0 on a voice vote. REP. CLARK voted SEN. KEENAN's proxy. Proxies for REP. JAYNE AND REP. HAINES were not provided to the secretary.

[REP. HAINES left the meeting prior to this vote].

#### **Update on Refinancing**

**Mr. Hunter** reviewed the IV-E portion of the refinancing proposal. In terms of IV-E money, there may be about \$500,000 to \$700,000 recoverable. In order to capture the federal revenue, they would have to move make changes in funding services that are currently being paid by TANF and Title XX. This presents a difficulty for them.

**{Tape: 3; Side: A; Approx. Time Counter: 0.6 - 2.4}**

**Ms. Gervais** reviewed the funds that were transferred to Child and Family Services in the past. In the base year of the current biennium, they used \$1.4 million of Title XX money and \$2.4 million is appropriated for each year of the biennium which is not available in the next biennium. They also have \$2.6 million of TANF funds each year of the current and future biennia. In addition to that, some TANF funds are used for administrative costs under an authorization previous to TANF.

**{Tape: 3; Side: A; Approx. Time Counter: 2.4 - 12}**

**Ms. Gervais** went on that they can transfer TANF to the Title XX Social Services Block Grant, and from there they could transfer the Social Services Block to three or four other federal grants. She said that she has not figured out a way to use this to the state's advantage.

**Mr. Hunter** commented that field work will start on increasing the IV-E percentage next week, so they will not have much information on that for the Subcommittee. In terms of targeted case management, there is a portion of the state plan that they would like to expand to a bigger program. This is the portion that may run afoul of federal decision-making. Even under the current plan, if they could find a way to have the Department retroactively declare a Medicaid provider, they believe that there is a potential of \$1 million in such money available and \$500,000 in new money on an ongoing basis. If they could get the new proposed amendment done, the \$500,000 would grow to \$1.3 million. He said that he would be back with a bill for nursing homes.

***{Tape: 3; Side: A; Approx. Time Counter: 12 - 15.9}***

There were suggestions from the Subcommittee on the information that they would like Mr. Hunter to provide with respect to the mechanisms that they are working on to fund programs, how much of the funding in the Executive Budget has been accounted for, and a list of how they would use the money. There was further discussion of backfilling and prioritization of where they would like money spent, as well as the suggestion of an administrative or refinancing fee on intergovernmental transfers(IGT).

**Ms. Steinbeck** suggested that if they were to do a fee, they would want it to be by provider type. She expanded on this saying that there is a mental health IGT, a Chemical Dependency(CD) IGT, a hospital, and nursing home IGT. She suggested that the Department may want to look at what one percent would generate on each of those along with the revenue that goes to the providers so that they can see if they want to change the percentage by program.

***{Tape: 3; Side: A; Approx. Time Counter: 15.9 - 20.7}***

**Director Gray** thanked the Subcommittee for its support of the Refinancing Unit. There are many good ideas, but the amount of time it takes to implement them is incredible. Without Mr. Hunter's able leadership, it may not have been done, and they appreciate it.

**Ms. Steinbeck** explained that the previous day she and the Department had been asked to address an informal working group of House Taxation on funding of the veterans' homes and the cigarette tax. They are trying to come up with one bill and requested that this Subcommittee give them a recommendation. She addressed the structural imbalance in the ending fund balance of the veterans' homes and said that the tax committee is concerned about this. She reported that the Taxation Committee revised approach includes: 1)a flat dollar amount, 2)a percentage

allocation which must raise at least "x revenue", and 3)a trigger to funnel money into general fund should the ending fund balance exceed "x."

**EXHIBIT(jhh27a05)**

**Funding of the Veterans' Homes**

**{Tape: 3; Side: A; Approx. Time Counter: 20.7 - 28.7}**

**Norm Rostocki, Senior and Long Term Care(SLTC)**, said that the Taxation Committee wants to know how much the Subcommittee would expect to be generated from the cigarette tax. He explained how the cigarette tax works, and said that they will spend \$1.3 million per year from the cigarette tax at the two veterans' facilities over the next two years. In order to generate \$1.3 million, the tax would need to be 12.2 and 12.4 percent, and it would vary by the year. The triggers that they discussed in the Taxation Committee are a good idea because as the cigarette tax increases, people will smoke less. The higher the tax goes, the less revenue will come in. If they end up with more revenue than anticipated, the fund balance builds and goes to the general fund. The Taxation Committee wanted the Subcommittee to tell them how much money it would expect to be needed from the cigarette tax to adequately fund the homes, and they were discussing a six-year time frame.

**EXHIBIT(jhh27a06)**

**EXHIBIT(jhh27a07)**

**{Tape: 3; Side: A; Approx. Time Counter: 28.7 - 34.7}**

Referring to B-146 of the Budget Analysis, **Ms. Steinbeck** said that the original executive request for veterans' homes operations was \$1.7 million in FY04. The budget request was revised and more of the funding in the veterans' homes was shifted to private pay, particularly in the Montana Veterans' Home. The other issue involved in this is the language requested by the Department allowing them to spend more of the SSR account if the federal revenue or private payments were not adequate. An issue that she became aware of yesterday was that even if veterans have the ability to pay and do not, they are still allowed to stay at the veterans' home and the cost of their care comes 100 percent out of the SSR. If this facility were funded from general fund, this would not be tolerated.

**{Tape: 3; Side: A; Approx. Time Counter: 34.7 - 48.5}**

**SEN. STONINGTON** said that if they are going to tax cigarettes higher, they have an obligation to tighten up the use of this special revenue account. She said that it is disturbing that if people who can afford to pay do not, we go ahead and pay for them. If the legislature is going to impose greater taxes on the



people of Montana, it has an obligation to husband those taxes well. It is not right that they are allowing one sector of the population, regardless of who they are, to take advantage of this.

**Kelly Williams, Administrator of SLTC**, said that it is not as pervasive a problem as it may sound. An ability-to-pay assessment is done, and the reimbursement unit within the Department is fairly aggressive in pursuing those sources of revenue that veterans have available to them. However, if they can not collect, they do not have the ability to deny them services. She said that she would find out what that percentage is and report back to them.

**SEN. STONINGTON** said that she likes the proposal which would project a cost estimate out six years and set the tax percentage with a trigger. **Ms. Steinbeck** said that they wanted values as well. **Mr. Rostocki** said that operating expenses hover around \$1.3 million based on federal reimbursement and the ability of patients to pay. There is fluctuation over time and how much they use from the cigarette tax based on those two things. He said that he does not think that \$1.3 million is adequate. The Taxation Committee talked about four cents per pack, and he said that he would prefer \$1.7 million as the amount.

*{Tape: 3; Side: B; Approx. Time Counter: 1.2 - 10.3}*

In continuation of the discussion on the cigarette tax amount, **Ms. Steinbeck** said that they could say that anything remaining over, in excess of the next year's appropriation, would revert to the general fund.

**Mr. Rostocki** said that if the bill is put together as the Taxation Committee suggested, it would allow there to be sufficient funding for the veterans' homes. It would also give the Subcommittee protection if they approve the language that says that they can spend it if they need to. The trigger would make this more palatable for the rest of the legislature. In two years they can look at the fund balance and see what has happened with it.

**Ms. Steinbeck** addressed the issue of how much of the cigarette tax is applicable to the long-range building proposal. They need to look at the budget and the amount that should come in the long-range building proposal, which would be the potential minimums, depending on the staffing problems and occupancy rates of the veterans' homes.

**Mr. Rostocki** stated that the revenue estimates from the legislature are about \$1.1 million per year with no change in the

cigarette tax, but they spend about \$1.3 million, which is the structural imbalance. **Ms. Williams** said that \$1.5 million would allow them to offset revenue versus expenditures and allows the fund balance to carry forward. In two years they will have the opportunity to address the fund balance again.

**Ms. Steinbeck** said that the House Taxation Committee wants something that would be good for five to six years. She asked if the Subcommittee recommends a two-year window with the idea that it can be corrected. **SEN. COBB** said that he is okay with the six years, but he is concerned about waiting two years to adjust it. **SEN. STONINGTON** suggested that they put it at \$1.5 million and suggest wording that would say that "if the ending fund balance is more than next year's appropriation, the excess money reverts to general fund." **Ms. Williams** said that she is unsure it gives an adequate fund balance to carry forward into the future. **Mr. Rostocki** said that another way would be to say "that the fund balance should be equal to one year's appropriation." The only thing that needs to be considered is long-range building but they would need to exceed the budget by a lot to run out of money in one year.

Referring to B-146, **Ms. Steinbeck** said that the ending fund balance is now projected to be \$1.5 million. The Department has lowered its request from the cigarette tax by \$500,000 to \$600,000, and they have identified an issue with the information entered in FY03 from the operating plants. This is not something over which LFD has any control to fix.

Responding to a query from **Ms. Steinbeck** regarding the Medicare reimbursement being closer to the cost than the domiciliary rate, **Ms. Williams** said that the per diem rate is \$128 per day, and they receive \$53 from the federal government for the regular nursing home. The domiciliary rate is \$26.

*{Tape: 3; Side: B; Approx. Time Counter: 19.5 - 20}*

**Motion/Vote:** **SEN. STONINGTON** moved that ITS RECOMMENDATION TO THE WORKING GROUP OF HOUSE TAXATION COMMITTEE THAT THE CIGARETTE TAX PERCENTAGE BE SET TO PROVIDE \$1.5 MILLION PER YEAR FOR THE VETERANS' HOMES, AND IF THEY DECIDE TO UTILIZE A TRIGGER, THAT IT BE THAT THE ENDING FUND BALANCE NOT DROP BELOW ONE YEAR'S APPROPRIATION AMOUNT BEFORE REVERSION TO THE GENERAL FUND BE ADOPTED. Motion carried 5-0 on a voice vote. No proxies were provided to the secretary.

*{Tape: 3; Side: B; Approx. Time Counter: 21.3 - 37}*

**Ms. Steinbeck** distributed and reviewed a handout. She went over the draft schedule wrap up; the decision packages which the

Subcommitte had deferred, not acted on or had failed; and the remaining policy issues.

**EXHIBIT (jhh27a08)**

A petition signed by people who do not want funding for health programs cut was submitted for the public record.

**EXHIBIT (jhh27a09)**

**ADJOURNMENT**

Adjournment: 11:30 A.M.

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REP. EDITH CLARK, Chairman

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SYDNEY TABER, Secretary

EC/ST

**EXHIBIT** (jhh27aad)